

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25644 of 2005

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Dated:12.12.2005

Between:

Shaik Peer Saheb, S/o. Khasim Saheb
Vijayawada,

..... PETITIONER

AND

Vijayawada Municipal Corporation, Rep. by its COMmissioner,
Vijayawada, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25644 of 2005

ORDER:

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The petitioner herein seeks a writ of mandamus declaring the action of the Vijayawada Municipal Corporation in restraining the petitioner from conducting fish business in Mahanthi Market, Vijayawada, as illegal and arbitrary. It is the case of the petitioner that by order dated 28.11.1990 he was allotted open space in Mahanthi Market for selling fish. However, the contractor who was appointed by the first respondent to collect the market fee created trouble to the petitioner so as to accommodate others and did not allow the petitioner to carry on the business. The third respondent herein also filed a writ petition, being W.P.No.3943 of 2005, claiming that he was allotted space, but this Court did not pass any orders therein. The petitioner also states that the respondents are not allowing him to carry on the business. Hence the present writ petition.

After obtaining instructions from her client the learned Standing Counsel for Vijayawada Municipal Corporation submits that by an endorsement dated 28.11.1990 the petitioner was allotted space in Mahanthi market on payment of

monthly rent to the contractor and he was asked to appear at the market to take possession of the space. The petitioner did not appear, and therefore, the space was allotted to others. She also submits that on 10.02.2004 and 29.01.2005 the petitioner made representations requesting for allotment of site in Mahanthi Market, and even before they could be considered the present writ petition is filed.

Though the petitioner alleges that pursuant to the allotment made, he carried on business by paying market fee, he did not produce any material before this Court. In any view of the matter the said contention stands belied by the representations/applications made by the petitioner for allotment of the site at Mahanthi Market. If petitioner's allotment made in 1990 is intact, there was no necessity for the petitioner again to file applications in January and February 2005 seeking allotment of space. Further, the petitioner has not explained the reasons for the delay of 14 years. This only shows that subsequent to allotment made in November 1990, the petitioner failed to appear at the market to take possession of the land, and the same was allotted to others. Secondly, as submitted by the learned Standing Counsel, there is no space available at Mahanthi Market for being allotted. However, the request of the petitioner may be considered by the first respondent, who is also directed to pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly disposed of. No costs.

(V.V.S.RAO, J)

12.12.2005

vs